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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, COMPLIANCE OFFICE	:	
	:	
	:	
	:	
v.	:	
	:	
RAIN OR SCHINE TOWING	:	Docket No. : 170038 (BNK-C&D)
	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (the "Department"), Compliance Office (the "Compliance Office"), has reviewed information relating to Rain or Schine Towing ("Rain or Schine"). Based on the results of its review, the Compliance Office concluded that Rain or Schine violated Section 6203(d) of the Consumer Credit Code ("CCC"), 12 Pa. C.S. § 6201 *et seq.*, related to the responsibility of the institution to pay examination invoices. The parties to the above-captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the CCC.
2. The Department conducts administration and enforcement of the CCC, primarily through the Compliance Office of its Non-Depository Deputate.

3. Rain or Schine is licensed by the Department as a Collector-Repossessor under the CCC with the License No. 43590.

4. Rain or Schine is a sole proprietorship.

5. Rain or Schine maintains its principal place of business at 374 S. Kendall Ave., Bradford, PA 16701-1752

6. On June 14, 2016, the Department conducted an examination of Rain or Schine at its principal place of business.

7. On August 24, 2016, the Department issued invoice number 1801905853 in the amount of \$355.60 for costs incurred during the examination.

8. The invoice was due within 60 days of the date the invoice was issued pursuant to Section 204.B of the Banking and Securities Code ("Code").

9. Rain or Schine did not pay invoice 1801905853 within 60 days from the date the invoice was issued.

10. The Department sent the first dunning notice via U.S. Mail to Rain or Schine on February 18, 2017, notifying them that invoice 1801905853 was past due. The first dunning notice also included administrative fee invoice 1801998333 in the amount of \$150.

11. The Department sent a second dunning notice via U.S. Mail to Rain or Schine on March 18, 2017, notifying them that invoice 1801905853 and administrative fee invoice 1801998333 were past due. The second dunning notice also included a second administrative fee invoice, 1802010977, in the amount of \$150.

12. The Department sent a third dunning notice via U.S. Mail to Rain or Schine on April 18, 2017, notifying them that invoice 1801905853 and administrative fee invoices

1801998333 and 1802010977 were past due. The third dunning notice also included a third administrative fee invoice, 1802024746, in the amount of \$150.

13. The dunning notices were not returned to the Department as undeliverable.

14. On June 5, 2017, the Department and Rain or Schine verbally negotiated a payment plan.

15. On June 6, 2017, the Department sent Rain or Schine a payment plan agreement formalizing the payment plan. Rain or Schine was to sign and return the payment plan agreement by June 30, 2017

16. As of June 30, 2017, the Department had no record of receiving the signed payment plan agreement from Rain or Schine.

17. Because Rain or Schine did not pay the delinquent examination invoice and administrative fee invoices, and because it was believed that Rain or Schine had not responded regarding the payment plan agreement, the Department suspended Rain or Schine's collector-repossessor license, number 43590, on June 30, 2017.

18. On July 10, 2017, Rain or Schine contacted the Department and provided proof in the form of a fax confirmation sheet that Rain or Schine attempted to return a signed copy of the consent order by fax prior to June 30, 2017.

Authority of the Department

19. Section 6218(a)(4) of the CCC authorizes the Department to suspend or revoke a license if the licensee has "failed to comply with a demand, order or regulation of the department lawfully made by the department under and within the authority of [the CCC]." 12 Pa. C S § 6218(a)(4)

20. The Department has the authority to issue orders for enforcement including the authority to suspend any license issued pursuant to the CCC if a licensee has failed to comply with or violated any provision of the CCC. 12 Pa. C.S. § 6203(a)(5), 6218.

21. Pursuant to Section 204.B of the Code, the Department “may impose in addition to the money assessed a maximum penalty fee of one hundred fifty dollars (\$150.00) for that sixty-day period and each successive thirty-day period of delinquency.” 71 P.S. § 733-204.B.

VIOLATIONS

22. By failing to pay examination invoice 1801905853 and administrative fee invoices 1801998333, 1802010977, and 1802024746, Rain or Schine is in violation of Section 6203(d) of the CCC. See 12 Pa. C.S. § 6203(d).

23. Rain or Schine contacted the Department and agreed to pay the examination invoice and administrative fee in eight (8) installments.

RELIEF

24. Examination Invoice. Rain or Schine will pay the amount of \$805.60 for examination invoice number 1801905853 issued on August 24, 2016, and administrative fee invoices 1801998333 issued on February 18, 2017; 1802010977 issued on March 18, 2017; and 1802024746 issued on April 18, 2017, in seven (7) installments of \$100, and one (1) installment of \$105.60. The first installment will be due thirty (30) days after the effective date of this Order. The remaining seven payments shall be due and payable every thirty (30) days thereafter until the examination invoice is paid in full.

25. Payment. Payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and Securities and sent to the attention of: PA Comptroller Operations, Accounts Receivable, P.O. Box 2833, Harrisburg, PA 17105.

26. Rescission of Suspension Order. The Department's Suspension Order dated June 30, 2017, with Docket No. 170038 is hereby RESCINDED as of the date of this Order

FURTHER PROVISIONS

27. Consent Rain or Schine hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Department's order authority under the CCC and agrees that it understands all of the terms and conditions contained herein. Rain or Schine, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

28. Publication and Release. Rain or Schine consents to the publication and release of this Order pursuant to the Department's authority in Section 302.A.(5) of the Code. 71 P.S. § 733-302 A (5).

29. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Compliance Office and Rain or Schine.

30. Binding Nature. The Compliance Office, Rain or Schine, and all officers, owners, directors, employees, heirs and assigns of Rain or Schine intend to be and are legally bound by the terms of this Order

31. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

32. Effectiveness. Rain or Schine hereby stipulates and agrees that the Order shall become effective on the date that the Compliance Office executes the Order (the "Effective Date")

33. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Rain or Schine in the future regarding all matters not resolved by this Order.

b. Rain or Schine acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

34. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

35. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format (PDF).

36. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Compliance Office and Rain or Schine, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, COMPLIANCE OFFICE**

Redacted

James Keiser, Chief
Compliance Office
Department of Banking and Securities

Date July 21, 2017



FOR RAIN OR SCHINE TOWING

Redacted
(Officer Signature)

Brian Shive
(Officer Name)

Owner
(Title)

Date: 7-16-17